

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

EUGENE ALLEN HERNANDEZ, SR.,

Plaintiff,

vs.

CIV 10-0342 CG

MICHAEL J. ASTRUE,  
Commissioner of Social Security,

Defendant.

**MEMORANDUM OPINION AND ORDER**

**THIS MATTER** is before the Court on the *Order to Show Cause* (Doc. 26). Plaintiff has failed to timely file a Motion to Reverse or Remand Administrative Agency ('MRR') as required by this Court. The Court, therefore, will dismiss the action without prejudice for failure to prosecute.

Plaintiff filed his complaint on April 12, 2010, and the Commissioner was served on June 15, 2010. (Doc. 1; Doc. 15). Following the Commissioner's answer, a briefing schedule was set by this Court in which Plaintiff was directed to file the MRR by October 18, 2010. (Doc. 21). On October 21, 2010, Plaintiff requested an extension to file the MRR. The Court granted the extension and the deadline to file was re-set for November 17, 2010. Plaintiff failed to file the MRR by November 17, and the Court subsequently ordered Plaintiff to show cause why his case should not be dismissed on December 3, 2010. Plaintiff was directed to respond to the Court's Order by January 3, 2011, but Plaintiff has not filed any response.

The Court has the inherent power to impose a variety of sanctions on litigants in

order to, among other things, regulate its docket and promote judicial efficiency. *Martinez v. Internal Revenue Service*, 744 F.2d 71, 73 (10th Cir. 1984). One such sanction within the discretion of the Court is to dismiss an action for want of prosecution. *Link v. Wabash R.R. Co.*, 370 U.S. 626, 629-30 (1962) (inherent authority); *Costello v. United States*, 365 U.S. 265, 286-87 (1961) (district court may dismiss *sua sponte* for failure to comply with order of court). Plaintiff's failure to comply with an order of the Court to show cause why his failure to prosecute the action should be excused is grounds for dismissing the action under this inherent authority.

Wherefore,

**IT IS HEREBY ORDERED THAT** this action **DISMISSED WITHOUT PREJUDICE** for failure to prosecute.

A handwritten signature in black ink, appearing to read 'Carmen E. Garza', with a long horizontal line extending to the right.

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THE HONORABLE CARMEN E. GARZA  
UNITED STATES MAGISTRATE JUDGE  
Presiding by Consent